

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of	Atty. Docket
BART VAN ROMPAEY ET AL.	FR 030029 US1
	Confirmation No. 3469
Serial No. 10/549,372	Group Art Unit: 2627
Filed: SEPTEMBER 14, 2005	Examiner: SASINOWSKI, A.
Title: REWRITABLE DATA CARRIER INCLUDING UNERASABLE TYPE INFORMATION DEFINING A READ-ONLY AREA (As Amended)	

Mail Stop Appeal Brief-Patents
Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

Sir:

In response to the Examiner's Answers mailed on March 19,
2010, please consider the following remarks:

REMARKS

Appellants maintain the arguments submitted in the Appeal Brief filed on November 16, 2009 which is incorporated herein by reference. Further, Appellants refute the allegations made in the Examiner's Answer of March 19, 2010.

In particular, on page 4 and in the Response to Argument section 10, page 11, first full paragraph of the Examiner's Answer of March 19, 2010, it is alleged that the structure management table, shown in FIG 20 of U.S. Patent No. 6,526,019 (Yoshimoto), discloses or suggests that the type area (which includes type information) is different from a first area defined as a read-only area by the type information, as recited in independent claims 1 and 12.

Appellants respectfully traverse the allegation that a type area which is different from a first area, which is defined as a read-only area by the type information stored in the type area, is disclosed or suggested by the "structure management table 20, note zones are listed independently from the table, which means the table must be in a different area of the disc than the first area]" (Examiner's Answer, page 4, bullet three; emphasis added) and by

"[fig. 20 is a detailed picture of the structure management table that shows that the table itself is clearly separate (and therefore 'different') from the read-only areas (a-ROM) that it defines.]" (Examiner's Answer, page 11, first full paragraph; emphasis added)

The zones in the table of FIG 20 of Yoshimoto do not mean that the table must be in a different area of the disc than the first area. The table of FIG 20 of Yoshimoto provides no information as the where the table is written. Rather, as specifically recited in Yoshimoto "[t]he disk structure management table is provided at the head of the defect management region (at the head of the user zone, or at the first sector in the first (No. 0) zone." (Yoshimoto, column 14, line 67 to column 15, line 2; emphasis added) The first (No. 0) zone is an "outermost zone No. 0." (Yoshimoto, column 14, line 67 to column 15, line 2; emphasis added)

There is simply no disclosure or suggestion in Yoshimoto that the outer zone (0) (where the structure management table 20 is written) is a zone or type area which is different from a first area, where the first area is defined as a read-only area by the structure management table of FIG 20.

Even, assuming, arguendo, that somehow this feature is disclosed or suggested in Yoshimoto, which is not the case,

Yoshimoto also does not disclose or suggest any type information being written in "an unerasable way," as recited in independent claims 1 and 12. U.S. Patent No. 5,661,703 (Moribe) is cited in an attempt to remedy the deficiencies in Yoshimoto.

Moribe is merely cited "to show that it would be obvious to one with ordinary skill in the art to record data onto an optical medium in a non-volatile way." (Examiner's Answer, page 11, last full paragraph, lines 1-2; emphasis added) Appellants do not dispute that it is known "to record data onto an optical medium in a non-volatile way."

It is respectfully submitted, that one skilled in the art would not be motivated to combine Yoshimoto with Moribe to record any type information in a non-volatile way. In particular, Yoshimoto strives to have type information that can be altered, and thus not recorded in a non-volatile way, as recited throughout Yoshimoto, such as "[t]he drive device 31 has the function of altering the attributes of the zones written in the management table." (Yoshimoto, column 16, lines 43-45; emphasis added; see also column 16, lines 35-36; column 5, lines 52-56; column 6, lines 8-11; column 6, lines 12-17; column 17, lines 2-5; lines 13-16; lines 40-43; and lines 48-50; column 18, lines 2-5; and FIGs 24-26

and 28) Accordingly, it is clear that Yoshimoto is concerned with and strive to have alterable attributes which are altered and recorded in table format of FIG 20 at "at the head of the defect management region (at the head of the user zone, or at the first sector in the first (No. 0) zone." (Yoshimoto, column 14, line 67 to column 15, line 2"

It should be noted that a device which "does not have the function of altering the attribute," as recited on column 17, lines 65-66 does not render the attributes as being recorded in a non-volatile way. As Yoshimoto strives to have alterable attributes, there is no motivation for one skilled in the art to have such attribute be recorded in a non-volatile way; otherwise the Yoshimoto invention is practically useless where one would not be able to alter an attribute be recorded in a non-volatile way, where Yoshimoto desires to alter attribute.

There is simply no suggestion or motivation to modify the alterable attributes of Yoshimoto for storing the attribute in a non-volatile way without using the present application as a road map to reconstruct the present invention, and without the benefit of impermissible hindsight.

Further, Appellants respectfully traverse the allegation that

"the "type information" taught in claim 1 can be interpreted to read on the identification code taught by Moribe [fig. 9, item 51, also note the 10 code taught in col. 4, lines 1-6 where the identification code is used to teach the disc is a certain type (authentic as opposed to pirated)]." (Examiner's Answer, page 12, third full paragraph; emphasis original) It is respectfully submitted that the disc being authentic as opposed to pirated relates to the entire disc, and has nothing to do about defining any particular area or portion of a disc having first and second areas, where the first area of the disc is different from the second area of the disc.

It is respectfully submitted that Yoshimoto, Moribe, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1 and similarly recited in independent claim 12 which, amongst other patentable elements, recites (illustrative emphasis provided):

said first area being defined as a read-only area by type information recorded on said data carrier in an unerasable way in a type area which is different from said first area.

Accordingly, it is respectfully submitted that independent claims 1 and 12 are allowable, and allowance thereof is

respectfully requested. In addition, it is respectfully submitted that claims 2-11 and 13 are also allowable at least based on their dependence from amended independent claims 1 and 12, as well as for the separately patentable elements contained in each of the claims.

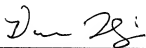
In addition, Appellants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, Appellants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

CONCLUSION

Claims 1-13 are patentable over Yoshimoto, Moribe, U.S. Patent No. 6,125,089 (Shigemori), U.S. Patent No. 7,280,461 (Endoh), U.S. Patent Application Publication No. 2004/0044567 (Willis) and U.S. Patent Application Publication No. 2004/0032813 (Lee).

Thus, the Examiner's rejections of claims 1-13 should be reversed.

Respectfully submitted,

By 
Dicran Halajian, Reg. 39,703
Attorney for Appellants
May 4, 2010

THORNE & HALAJIAN, LLP
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

Please direct all inquiries and correspondence to:
Michael E. Belk, Reg. 33,357
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
(914) 333-9643